

24309
DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210699

DATE: February 22, 1983

MATTER OF: Bogue Electric Manufacturing Co.

DIGEST:

1. GAO does not review whether an offeror is a regular dealer or manufacturer under the Walsh-Healey Act, since by law the matter is for the contracting agency's determination subject to final review by the Small Business Administration (if a small business is involved) and the Secretary of Labor.
2. GAO does not consider a protest of a bidder's small business size status because the Small Business Administration has statutory authority to determine conclusively small business size status for Federal procurements.

Bogue Electric Manufacturing Co. protests the Army's award of a contract to Libby Welding Company under invitation for bids (IFB) No. DAAJ09-83-B-A078, which was set aside for small business concerns. The contract is to supply certain generators, and is subject to the Walsh-Healey Act, 41 U.S.C. §§ 35-45 (1976), which basically requires that a Federal agency's contract for supplies exceeding \$10,000 be awarded to a manufacturer or regular dealer. Bogue contends that Libby is not a manufacturer of the supplies as Libby allegedly certified in its bid, and that it is not a small business. We dismiss the protest.

Our Office does not consider whether a bidder is a regular dealer or manufacturer within the meaning of the Walsh-Healey Act. By law, such matters are for determination by the contracting agency in the first instance, subject to final review by the Small Business Administration (SBA) where a small business is involved, and by the Secretary of Labor. Attack Incorporated, B-208512, September 15, 1982, 82-2 CPD 227; see Defense Acquisition Regulation § 12-604 (1976 ed.).

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We also do not consider protests concerning a bidder's size status, because the SBA, not this Office, has statutory authority to determine conclusively matters of small business size status for Federal procurements. 15 U.S.C. § 637(b)(Supp. IV 1980); Compulaser Incorporated, B-206834, April 12, 1982, 82-1 CPD 336.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel